
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

CHRISTINE MATHEWS-LOVATO, *PRO SE*,

Plaintiff,

vs.

**VANDYK MORTGAGE CORP.,
MORTGAGE ELECTRONIC
REGISTRATION SERVICES, INC.,
WELLS FARGO HOME MORTGAGE,
GOVERNMENT NATIONAL
MORTGAGE ASSOCIATION (GINNIE
MAE), JAMES H. WOODALL, AND
DOES I-X,**

Defendants.

REPORT AND RECOMMENDATION

Case No. 2:15-cv-00266-DN-EJF

District Judge David Nuffer

Magistrate Judge Evelyn J. Furse

The undersigned¹ RECOMMENDS dismissing the claims against Vandyk Mortgage Corp. (“VanDyk”) with prejudice for failure to state a claim upon which this Court can grant relief.

On August 19, 2015, Vandyk moved to dismiss the claims against it with prejudice pursuant to Rule 12(b)(6). (Def.’s Mot. to Dismiss (Mot.), [ECF No. 18](#).) VanDyk’s grounds for moving to dismiss *pro se* Plaintiff Christine Mathews-Lovato’s claims echo the arguments put forth by Defendants Mortgage Electronic Registration Services, Inc. (“MERS”), Wells Fargo Home Mortgage, and Government National Mortgage Association (“Ginnie Mae”) in a prior motion to dismiss. ([ECF No. 7](#).) The Court dismissed these defendants with prejudice on August 18, 2015. ([ECF No. 17](#).) Because Ms. Mathews-Lovato did not serve VanDyk until July 20, 2015, VanDyk did not timely join the previous motion to dismiss. (Mot. 2 n.1, [ECF No. 18](#).)

¹ On April 23, 2015, District Judge David Nuffer referred this case to Magistrate Judge Evelyn J. Furse under 28 U.S.C. § 636(b)(1)(B). ([ECF No. 6](#).)

On August 19, 2015, VanDyk served a copy of the Motion on Ms. Mathews-Lovato via U.S. mail to her address on record. (Mot. 13, [ECF No. 18](#).) VanDyk later received notice that service of the motion was not deliverable to Ms. Mathews-Lovato's address, and VanDyk could not obtain an alternate address at which to serve Ms. Mathews-Lovato. ([ECF No. 19](#).) The Court sent the undersigned's prior Report and Recommendation to Ms. Mathews-Lovato, but it was also returned as undeliverable on August 10, 2015. ([ECF No. 16](#).) The notice of returned mail from the U.S. Postal Service indicated that Ms. Lovato had moved from the address she provided to the court and left no forwarding address. (*Id.* at 5, [ECF No. 16](#).)

The Rules of Practice for the District of Utah require all "counsel and parties appearing pro se [to] notify the clerk's office immediately of any change in address, email address, or telephone number." DUCiv R 83-1.3(e). Ms. Mathews-Lovato never provided the clerk's office with a change of address. Further, Ms. Mathews-Lovato never opposed VanDyk's Motion and the time to do so passed on or before September 21, 2015.

For the reasons stated in the Motion and based on the non-opposition to the Motion, the undersigned RECOMMENDS the District Court dismiss the claims against VanDyk with prejudice.

The Court will send copies of this Report and Recommendation to the parties who are hereby notified of their right to object to the same. The Court further notifies the parties that they must file any objection to this Report and Recommendation with the clerk of the court, pursuant to [28 U.S.C. § 636\(b\)](#) and [Fed. R. Civ. P. 72\(b\)](#), within fourteen (14) days of service thereof. Failure to file objections may constitute waiver of objections upon subsequent review.

DATED this 28th day of January, 2016.

BY THE COURT:



EVELYN J. KURSE
United States Magistrate Judge